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**SUBSTITUTE FOR
SENATE BILL NO. 396**

A bill to amend 1994 PA 451, entitled
"Natural resources and environmental protection act,"
by amending sections 502 and 1301 (MCL 324.502 and 324.1301),
section 502 as amended by 2004 PA 587 and section 1301 as amended
by 2018 PA 451, by adding section 52509, and by adding subchapter
6 to chapter 3 of article III.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 502. (1) The ~~commission~~**department** may promulgate
rules, not inconsistent with law, governing its organization and
procedure.

(2) The department ~~may~~**shall** do 1 or more of the following:

(a) Promulgate and enforce reasonable rules concerning the
use and occupancy of lands and property under its control in
accordance with section 504.

(b) Provide and develop facilities for outdoor recreation.

(c) Conduct investigations it considers necessary for the
proper administration of this part.

(d) Remove and dispose of forest products as required for the protection, reforestation, and proper development and conservation of the lands and property under the control of the department.

(e) Require the payment of a fee as provided by law for a daily permit or other authorization that allows the person to hunt and take waterfowl on a public hunting area managed and developed for waterfowl.

(f) Create a program to incentivize innovation for the use and reutilization of captured carbon dioxide substances.

(3) Except as provided in subsection (4), the department may enter into contracts for the taking of coal, oil, gas, and other mineral products from state owned lands, upon a royalty basis or upon another basis, and upon the terms the department considers just and equitable subject to section 502a. ~~This contract power includes authorization to~~ **The department may** enter into contracts for the **capture, disposal, or** storage of gas, **carbon dioxide substances**, or ~~other~~ mineral products in or upon state owned lands, if the consent of the state agency having jurisdiction and control of the state owned land is first obtained. A contract permitted under this section for the taking of coal, oil, gas, or metallic mineral products, or for the **capture, disposal, or** storage of gas, **carbon dioxide substances**, or ~~other~~ mineral products, is not valid unless the contract is approved by the state administrative board. ~~Money received from a contract for the storage of gas or other mineral products in or upon state lands shall be transmitted to the state treasurer for deposit in the general fund of the state to be used for the purpose of defraying the expenses incurred in the administration of this act and other purposes provided by law. Other money~~ **Money** received from a contract ~~permitted under this subsection~~ **for the taking of coal, oil, gas, or metallic mineral products**, except money received from lands acquired with money from the former game and fish protection fund or the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010, shall be transmitted to the state treasurer for deposit in the Michigan natural resources trust fund created in section 35 of

article IX of the state constitution of 1963 and provided for in part 19. ~~However, the money~~ **Money** received from the payment of service charges by a person using areas managed for waterfowl shall be credited to the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010 and used only for the purposes provided by law. Money received from bonuses, rentals, delayed rentals, royalties, and the direct sale of resources, including forest resources, from lands acquired with money from the former game and fish protection fund or the game and fish protection account of the Michigan conservation and recreation legacy fund provided for in section 2010 shall be credited to the Michigan game and fish protection trust fund established in section 41 of article IX of the state constitution of 1963 and provided for in part 437, except as otherwise provided by law.

(4) The department shall not enter into a contract that allows drilling operations beneath the lake bottomlands of the Great Lakes, the connected bays or harbors of the Great Lakes, or the connecting waterways as defined in section 32301, for the exploration or production of oil or gas.

(5) This section does not permit a contract for the taking of gravel, sand, coal, oil, gas, or other metallic mineral products that does not comply with applicable local ordinances and state law.

(6) Unless otherwise provided by law, money received from bonuses, rentals, delayed rentals, and royalties collected or reserved under provisions of leases for the capture, disposal, or storage of gas, carbon dioxide substances, or mineral products in or upon state lands shall be credited as follows:

(a) For lands other than tax reverted lands, to the fund from which the land was purchased.

(b) For tax reverted lands, as follows:

(i) 50% to the Michigan game and fish protection trust fund created in article IX, section 41 of the state constitution of 1963 and provided for in part 437.

(ii) 50% to the forest management trust fund created in section 52509.

(7) The department may sell carbon offset credits that it owns from public land under its management, if all the following criteria are met:

(a) The carbon offset credits are third-party verified.

(b) The sale of carbon offset credits allows for continued land management as outlined by the department's land management plans or strategies.

(8) This section does not create a preemptive right for the department or this state to own any carbon offset credits related to public land if a third party has legal rights to the credits. Notwithstanding any law to the contrary, carbon offset credits or tax credits that result from the sequestration of carbon dioxide on public lands during the effective period of permitted sequestration and until issuance of a certificate of project completion are the property of a carbon sequestration project operator. Nothing in this subsection prohibits a carbon sequestration project operator from contracting for the sale, transfer, or other lawful disposition of the credits.

(9) As used in this section, "carbon dioxide substance" means a gaseous or liquid substance, consisting primarily of carbon dioxide, that will be disposed of or put in storage, or that has been or will be used to produce hydrocarbons in a secondary or enhanced recovery operation.

Sec. 1301. As used in this part:

(a) "Application period" means the period beginning when an application for a permit is received by the state and ending when the application is considered to be administratively complete under section 1305 and any applicable fee has been paid.

(b) "Department" means the department, agency, or officer authorized by this act to approve or deny an application for a particular permit. As used in sections 1315 to 1317, "department" means the department of ~~environmental quality~~**environment, Great Lakes, and energy**.

(c) "Director" means the director of the state department authorized under this act to approve or deny an application for a particular permit or the director's designee. As used in sections

1313 to 1317, "director" means the director of the department of ~~environmental quality~~. **environment, Great Lakes, and energy.**

~~(d) "Environmental permit review commission" or "commission" means the environmental permit review commission established under section 1313(1).~~

(d) ~~(e)~~ "Environmental permit panel" or "panel" means a panel of the environmental permit review commission, appointed under section 1315(2).

(e) "Environmental permit review commission" or "commission" means the environmental permit review commission established under section 1313(1).

(f) "Permit", except as provided in subdivision (g), means a permit, operating license, or registration required by any of the following sections or by rules promulgated thereunder, or, in the case of section 9112, by an ordinance referred to in that section:

- (i) Section 3104, floodplain alteration permit.
- (ii) Section 3503, permit for use of water in mining iron ore.
- (iii) Section 4105, sewerage system construction permit.
- (iv) Section 6516, vehicle testing license.
- (v) Section 6521, motor vehicle fleet testing permit.
- (vi) Section 8310, restricted use pesticide dealer license.
- (vii) Section 8310a, agricultural pesticide dealer license.
- (viii) Section 8504, license to manufacture or distribute fertilizer.

(ix) Section 9112, local soil erosion and sedimentation control permit.

(x) Section 11509, solid waste disposal area construction permit.

(xi) Section 11512, solid waste disposal area operating license.

(xii) Section 11542, municipal solid waste incinerator ash landfill operating license amendment.

(xiii) Section 11702, septage waste servicing license or septage waste vehicle license.

(xiv) Section 11709, septage waste site permit.

(xv) Section 30104, inland lakes and streams project permit.

(xvi) Section 30304, state permit for dredging, filling, or other activity in wetland. Permit includes an authorization for a specific project to proceed under a general permit issued under section 30312.

(xvii) Section 31509, dam construction, repair, or removal permit.

(xviii) Section 32312, flood risk, high risk, or environmental area permit.

(xix) Section 32512, permit for dredging and filling bottomland.

(xx) Section 32603, permit for submerged log removal from Great Lakes bottomlands.

(xxi) Section 35304, department permit for critical dune area use.

(xxii) Section 36505, endangered species permit.

(xxiii) Section 41329, nonnative aquatic species sales registration.

(xxiv) Section 41702, game bird hunting preserve license.

(xxv) Section 42101, dog training area permit.

(xxvi) Section 42501, fur dealer's license.

(xxvii) Section 42702, game dealer's license.

(xxviii) Section 44513, charter boat operating permit under reciprocal agreement.

(xxix) Section 44516, boat livery operating permit.

(xxx) Section 45902, game fish propagation license.

(xxxi) Section 45906, game fish import license.

(xxxii) Section 48705, permit to take amphibians and reptiles for scientific or educational use.

(xxxiii) Section 61525, oil or gas well drilling permit.

(xxxiv) Section 62509, brine, storage, or waste disposal well drilling or conversion permit or test well drilling permit.

(xxxv) Section 63103a, ferrous mineral mining permit.

(xxxvi) Section 63514 or 63525, surface coal mining and reclamation permit or revision of the permit, respectively.

(xxxvii) Section 63704, sand dune mining permit.

(xxxviii) Section 65102, carbon sequestration project operating permit.

(xxxix) ~~(xxxviii)~~ Section 72108, use permits for a Pure Michigan Trail.

(xl) ~~(xxxix)~~ Section 76109, sunken aircraft or watercraft abandoned property recovery permit.

(xli) ~~(xxx)~~ Section 76504, Mackinac Island ~~motor vehicle and~~ land use permits.

(xlii) ~~(xxxv)~~ Section 80159, buoy or beacon permit.

(g) "Permit", as used in sections 1313 to 1317, means any permit or operating license that meets both of the following conditions:

(i) The applicant for the permit or operating license is not this state or a political subdivision of this state.

(ii) The permit or operating license is issued by the department of ~~environmental quality~~ **environment, Great Lakes, and energy** under this act or the rules promulgated under this act.

(h) "Processing deadline" means the last day of the processing period.

(i) "Processing period", subject to section 1307(2) and (3), means the following time period after the close of the application period, for the following permit, as applicable:

(i) Twenty days for a permit under section 61525 or 62509, **except as follows for a permit under section 61525 for a well for secondary recovery, for the disposal of salt water or brine produced in association with oil or gas operations or other oil field wastes, or for the development of reservoirs for the storage of liquid or gaseous hydrocarbons:**

(A) Twenty-five days if the department does not receive public comment on the application.

(B) Thirty-five days if the department receives public comment but does not hold a public hearing on the application.

(C) Ninety days if the department receives public comment and holds a public hearing on the application.

(ii) Thirty days for a permit under section 9112 or 44516.

(iii) Thirty days after the department consults with the underwater salvage and preserve committee created under section 76103, for a permit under section 76109.

(iv) Sixty days, for a permit under section 30104 **or 32512** for a **project in a** minor project **category** established under section 30105(7) or 32512a(1), ~~or respectively,~~ **for** an authorization for a specific project to proceed under a general permit issued under section 30105(8) or 32512a(2), or for a permit under section 32312 or 41329.

(v) Sixty days or, if a hearing is held, 90 days for a permit under section 35304.

(vi) Sixty days or, if a hearing is held, 120 days for a permit under section 30104, other than a permit or authorization described in subparagraph ~~(ii) or (iv)~~, or for a permit under section 31509.

(vii) Ninety days for a permit under section 11512, a revision of a surface coal mining and reclamation permit under section 63525, or a permit under section 72108.

(viii) Ninety days or, if a hearing is held, 150 days for a permit under section 3104 or 30304, or a permit under section 32512 other than a permit described in subparagraph (iv).

(ix) Ninety days after the close of the review or comment period under section ~~32604, 32605~~, or if a public hearing is held, 90 days after the date of the public hearing for a permit under section 32603.

(x) One hundred twenty days for a permit under section 11509, 11542, 63103a, 63514, or 63704.

(xi) One hundred fifty days for a permit under section 36505. However, if a site inspection or federal approval is required, the 150-day period is tolled pending completion of the inspection or receipt of the federal approval.

(xii) Two hundred days for a permit under section 65102.

(xiii) ~~(xii)~~ For any other permit, 150 days or, if a hearing is held, 90 days after the hearing, whichever is later.

Sec. 52509. (1) The forest management trust fund is created in the state treasury.

(2) The state treasurer shall deposit money and other assets received under section 502(6)(b)(ii) or from any other source in the fund. The state treasurer shall direct the investment of money in the fund and credit interest and earnings from the investments to the fund.

(3) The department is the administrator of the fund for audits of the fund.

(4) The department shall, upon appropriation, expend from the fund during any state fiscal year an amount not greater than 1/3 of the revenue received by the fund, including interest and earnings, during the previous state fiscal year. Money shall be expended from the fund only for 1 or more of the following purposes:

- (a) Road infrastructure on state forest.
- (b) Habitat management activities on state forest.
- (c) Reforestation and other forest management activities to maintain the health of state forest.
- (d) Administration of carbon-related leasing programs.

Article III

NATURAL RESOURCES MANAGEMENT

Chapter 3

MANAGEMENT OF NONRENEWABLE RESOURCES

Subchapter 6

CARBON SEQUESTRATION

Part 651

CARBON SEQUESTRATION REGULATION

Sec. 65101. As used in this part:

(a) "Carbon dioxide stream" means carbon dioxide that has been captured from an emission source, incidental associated substances derived from the source materials and the capture process, and any substances added to enable or improve the injection process. Carbon dioxide stream does not include a substance that meets the definition of a hazardous substance under 40 CFR 261.3.

(b) "Carbon sequestration project" means 1 or more injection wells, a storage reservoir, and underground and surface facilities and equipment used or proposed to be used in geologic storage of

carbon dioxide streams. Carbon sequestration project does not include an enhanced oil recovery well or pipelines used to transport a carbon dioxide stream to a carbon sequestration project.

(c) "Carbon sequestration project operator" means a person that holds or is an applicant for a permit.

(d) "Confining zone" means that term as defined in section 2 of the subsurface pore space act.

(e) "Division" means the geologic resources management division of the department of environment, Great Lakes, and energy.

(f) "Federal regulations" means any regulatory requirement applicable to a carbon sequestration well project under the United States Environmental Protection Agency underground injection control program for class VI wells provided for in 40 CFR parts 144 and 146.

(g) "Geologic storage" means the long-term underground storage of a carbon dioxide stream in an authorized storage reservoir by injection through a class VI well. Geologic storage does not include the injection or disposal of carbon dioxide, acid gas, or other fluids subject to a permit and bond under section 61525.

(h) "Permit", unless the context indicates otherwise, means a permit issued under this part authorizing a person to operate a carbon sequestration project.

(i) "Pore space" means that term as defined in section 2 of the subsurface pore space act.

(j) "Reservoir" means a subsurface sedimentary stratum, formation, aquifer, cavity, or void, whether natural or artificially created, including, but not limited to, an oil and gas reservoir, saline formation, or coal seam, that is both of the following:

(i) Suitable for or capable of being made suitable for injecting and storing a carbon dioxide stream.

(ii) Hydraulically isolated, by 1 or more confining zones, from any overlying formations containing an underground source of drinking water.

(k) "Storage reservoir" means a reservoir proposed, authorized, or used for storing a carbon dioxide stream as part of a carbon sequestration project. Storage reservoir includes the proposed and actual subsurface 3-dimensional extent of the carbon dioxide stream plume, associated area of elevated pressure, and displaced fluids.

(l) "Supervisor" means the state geologist as defined in section 60101.

(m) "Surface waste" means either of the following:

(i) The unnecessary damage to or destruction of surface property, natural resources, or the environment.

(ii) The unnecessary endangerment of public health, safety, or welfare.

(n) "Underground source of drinking water" means that term as defined in 40 CFR 144.3.

(o) "Unit area" means the pore space and surface lands included in a carbon sequestration project.

Sec. 65102. (1) A person shall not engage in geologic storage or construct or operate a carbon sequestration project except pursuant to a permit issued by the division pursuant to part 13 or by the United States Environmental Protection Agency. Any owner of the carbon sequestration project or the carbon sequestration project operator may apply for a permit.

(2) If an electric provider or independent power producer submits an application for a permit to the division, the electric provider or independent power producer shall simultaneously submit a copy of the application to the Michigan public service commission for informational purposes.

(3) The owner of a carbon sequestration project or a carbon sequestration project operator is exempt from obtaining a permit under part 625, but is not exempt from obtaining any other permit or approval required under this act. This part does not exempt an electric provider or independent power producer to which a permit is issued from obtaining any other permit, a license, or an authorization for the recovery of costs that is required by federal or state law.

(4) A permit applicant or a carbon sequestration project operator may claim information submitted to the division under this part as confidential business information. The claim must be asserted at the time of submission in the manner prescribed on the application form or instructions or, in the case of other submissions to the division, by placing the words "confidential business information" on each page containing the information. The division's determination with respect to each claim of confidentiality shall be made after consideration of the substantive criteria for use in confidentiality determinations under 40 CFR 2.208 or any previously issued determinations that are applicable. The division shall deny a claim of confidential business information if confidentiality is prohibited by federal regulations or state law.

(5) An application for a permit under subsection (1) shall include, but is not limited to, the following:

(a) The names and addresses of record for all of the following persons:

(i) Persons that have interests within the portion of the storage reservoir underlying the area included within the carbon sequestration project and within 1/4 mile of the boundaries of such portion of the storage reservoir, including the following:

(A) Oil, gas, and mineral lessees.

(B) Oil, gas, and mineral owners.

(C) Holders of permits to drill and operate under part 615 or 625.

(D) Pore space owners.

(E) Owners and lessees of subsurface geological formations and confining zones.

(ii) Surface owners of land overlying the portion of the storage reservoir underlying the area included in the carbon sequestration project and within 1/4 mile of the boundaries of that portion of the storage reservoir.

(b) A map and accompanying description that clearly identifies the location of all carbon dioxide sequestration activities for which a permit is sought.

(c) A map and accompanying description that clearly identifies the properties overlaying the sequestration activity.

(d) Copies of any permit and related application materials submitted to or issued by the United States Environmental Protection Agency in accordance with the federal class VI well program.

(e) A report describing groundwater and soil gas baseline conditions at the sequestration project and immediately adjacent surface properties. The report shall meet all of the following requirements:

(i) Contain sampling data generated within 180 calendar days before the submission of the permit application.

(ii) Identify the constituents of concern for which monitoring was conducted and the method for selecting those constituents of concern.

(iii) Describe the sampling methodology employed to collect and test groundwater and soil samples in a manner consistent with standards established by a national laboratory accreditation body.

(iv) Identify the accredited laboratory used to conduct the testing.

(v) Include the sampling results for the identified constituents of concern.

(f) A report addressing how groundwater and surface water will be protected and used by the carbon dioxide sequestration project operator.

(g) A gas monitoring plan for groundwater and soil that includes, but is not limited to, all of the following:

(i) A monitoring frequency designed to identify the nature and extent of any release of carbon dioxide or other constituents of concern, the source of the release, and the estimated volume of the release.

(ii) Confirmation monitoring protocols to address any monitoring results that reflect a statistically significant increase over background levels.

(iii) Development and submission of monitoring reports to the department at a frequency determined by the division.

(6) The department may enter into cooperative agreements with other governments or government entities to regulate carbon sequestration projects that extend beyond this state's geographic boundaries.

Sec. 65103. The division may charge a fee for a permit application in an amount that does not exceed the actual reasonable cost of processing the application.

Sec. 65104. (1) The division shall hold a public hearing on a permit application within 60 days after the application is considered to be administratively complete under section 1305. The division may prepare a draft permit in accordance with federal regulations.

(2) The division shall provide notice of a public hearing under subsection (1) at least 30 days before the public hearing as follows:

(a) By publication in 1 or more newspapers of general circulation in each county in which all or part of the proposed carbon sequestration project is to be located.

(b) By posting the notice on the division's website.

(c) By first-class mail with proof of delivery to each of the following:

(i) The following persons that have interests within the portion of the storage reservoir underlying the area covered by the carbon sequestration project and within 1/4 mile of the boundaries of that portion of the storage reservoir, using information provided by the applicant under section 65102(5):

(A) Oil, gas, and mineral lessees.

(B) Oil, gas, and mineral owners.

(C) Holders of permits to drill and operate under part 615 or 625.

(D) Pore space owners.

(E) Owners and lessees of subsurface geological formations and confining zone.

(ii) Surface owners of land overlying the portion of the storage reservoir underlying the area covered by the applicable carbon sequestration project and within 1/4 mile of the boundaries of that portion of the storage reservoir.

(3) The notice under subsection (2) shall include the purpose, time, and location of the hearing and a copy of the permit application or information on how to obtain a copy.

(4) If substantial compliance with the notice requirements in this section is achieved, inadvertent mistakes in compliance are not a bar to processing the permit.

(5) The owner or lessee of a mineral interest may request a hearing with the division during the permit processing period to present evidence that the mineral interest would be damaged by the project as proposed in the permit application. If a hearing is requested, the division shall do all of the following:

(a) Attempt to mediate a mutually agreeable resolution of the dispute.

(b) Request modifications to drilling and construction plans as necessary to ensure the mineral interest is not damaged.

(c) Consider the evidence presented at the hearing when making the final permit decision.

Sec. 65105. (1) The division shall issue a permit if the division determines all of the following:

(a) The carbon sequestration project operator has complied with this part in relation to the application.

(b) The carbon sequestration project operator has submitted to the division all information required under federal regulations.

(c) The carbon sequestration project will comply with federal regulations, including, but not limited to, requirements to protect underground sources of drinking water.

(d) If the drilling and installation of a well and subsequent injection of a carbon dioxide stream into the storage reservoir will endanger or damage any oil, gas, or other mineral resource or formation in any material respect, the endangerment or damage is or can be satisfactorily addressed in an arrangement between the applicant and the mineral lessee or mineral owners within the unit area.

(e) The carbon sequestration project operator has obtained all legal rights or authorizations associated with the proposed carbon sequestration project that are necessary to operate the

carbon sequestration project, as demonstrated by 1 or more of the following:

(i) Documentation that the carbon sequestration project operator owns some or all of the property necessary to operate the proposed carbon sequestration project.

(ii) Written approval of the persons holding some or all of the legal rights in the property necessary to operate the proposed carbon sequestration project.

(iii) An order for unit operations under part 653. However, the division may issue a permit contingent on the applicant obtaining an order for unit operations under part 653.

(f) The carbon sequestration project operator has submitted to the division information demonstrating that the operator will comply with federal regulations in effect on the effective date of the amendatory act that added this section, excepting expiration dates associated with available tax credits for carbon oxide sequestration as provided by section 45Q of the internal revenue code of 1986, 26 USC 45Q.

(g) The carbon sequestration project operator has provided each local unit of government where the carbon sequestration project is located with the emergency and remedial response plan required under 40 CFR 146.94 and any other emergency response plans requested by the local unit of government.

(2) The division shall incorporate permit conditions required by federal regulations, including, but not limited to, the following:

(a) Financial responsibility requirements.

(b) Requirements to record and report monitoring results.

(c) Requirements to protect public health and safety.

(3) The division may establish a schedule of compliance or alternative schedule of compliance permitted under federal regulations.

(4) An applicant shall maintain records of all data used to complete permit applications and any supplemental information submitted under federal regulations for a period of at least 10 years after the division issues a certificate of project completion under section 65109.

(5) All permit applications, reports, or changes to authorization shall be signed in the manner required under federal regulations. A person that signs an application or report shall include the certification required under federal regulations.

(6) The duration of a permit issued under this part shall comply with federal regulations.

Sec. 65106. When the division issues a permit, it shall also issue a certificate stating that the permit has been issued. The certificate shall describe the area covered and include other information the division considers appropriate. The carbon sequestration project operator shall file a copy of the certificate with the county register of deeds of each county where the storage facility is located.

Sec. 65107. (1) Unless otherwise expressly provided by contract, bill of sale, deed, mortgage, deed of trust, or other legally binding document or by other applicable law, a carbon sequestration project operator holds title to or control of the carbon dioxide stream injected into and stored in a storage reservoir until the division issues a certificate of project completion under section 65109.

(2) A carbon sequestration project operator is not liable for the presence of or pressure from the injected carbon dioxide stream if this state has assumed any potential liability associated with the carbon dioxide stream under section 65110(c). Otherwise, a carbon sequestration project operator is not liable for the presence of or pressure from the injected carbon dioxide stream unless the person asserting that the carbon sequestration project operator is liable establishes that the carbon dioxide stream has caused any of the following:

(a) A substantial interference with the reasonable use of the person's real property.

(b) A direct physical injury to the person or the person's tangible property.

(c) A substantial interference with the recovery of oil or gas from the person's producing oil and gas reservoir.

(3) A permit may be transferred to a new carbon sequestration project operator or owner only if the permit has

been modified or revoked and reissued, or a minor modification made, to identify the new carbon sequestration project operator and incorporate any other updates or requirements necessary under this part.

Sec. 65108. (1) The division shall review a permit issued under this part as required by federal regulations.

(2) Pursuant to federal regulations, a permit may be modified, revoked and reissued, or terminated at the request of the permittee or upon the division's initiative.

Sec. 65109. (1) After the cessation of carbon dioxide injection, a carbon sequestration project operator shall conduct monitoring, as specified in the postinjection site care and site closure plan required by federal regulations. The monitoring shall be conducted for at least 50 years or an alternative time frame approved by the division pursuant to federal regulations, and until containment of the carbon dioxide stream is verified and the carbon sequestration project no longer poses an endangerment to underground sources of drinking water, as demonstrated to the satisfaction of the division by substantial evidence from monitoring and other site-specific data submitted to and approved by the division pursuant to federal regulations.

(2) If, before the end of the 50-year period or the approved alternative time frame under subsection (1), the owner or carbon sequestration project operator demonstrates to the satisfaction of the division, based on substantial evidence from monitoring and other site-specific data submitted to and approved by the division pursuant to federal regulations, that the carbon sequestration project no longer poses an endangerment to underground sources of drinking water, the director may approve an amendment to the postinjection site care and site closure plan to reduce the frequency of monitoring or may authorize site closure before the end of the 50-year period or of the approved alternative time frame.

(3) The division must hold a public hearing before approving an alternative time frame under subsection (1) or a site-closure date under subsection (2).

(4) A carbon sequestration project operator may submit to the division an application requesting a certificate of project completion. If the division determines that the application for a certificate of project completion is incomplete or inaccurate, the division shall return the application to the carbon sequestration project operator with a written statement of the deficiencies of the application and the right to submit a corrected application with the department.

(5) The division shall hold a public hearing on an application for a certificate of project completion within 60 days after receiving a complete and accurate application. The division shall provide notice of the purpose, time, and location of the public hearing in compliance with section 65104(2) and (3).

(6) Within 180 days after receiving a complete and accurate application, the division shall issue or deny a certificate of project completion and notify the carbon sequestration project operator of the reasons for denial. The division shall issue a certificate of project completion if the division determines all of the following:

(a) The carbon sequestration project operator is in compliance with all laws governing the carbon sequestration project.

(b) The carbon sequestration project operator has done all of the following:

(i) Submitted to the division a well plugging plan and notice of intent to plug required under federal regulations.

(ii) Plugged the wells, removed equipment and facilities, and completed any reclamation work required by the division

(iii) Submitted to the division a plugging report required under federal regulations.

(iv) Prepared, maintained, and complied with a plan for postinjection site care and site closure required under federal regulations.

(v) Submitted to the division all other notices and reports required under federal regulations.

(vi) Complied with any other federal regulations regarding postinjection site care and site closure.

(c) Project data demonstrates the containment integrity of the storage reservoir, and the injected carbon dioxide stream is reasonably expected to remain emplaced and not endanger an underground source of drinking water.

(5) A carbon sequestration project operator that is denied a certificate of project completion may submit a new application for a certificate of project completion under subsection (4).

Sec. 65110. (1) When a certificate of project completion is issued under section 65109, all of the following apply:

(a) This state assumes title to and ownership of and responsibility for the carbon sequestration project and carbon dioxide stream injected into the storage reservoir.

(b) This state assumes responsibility for all regulatory requirements associated with the carbon sequestration project, and the carbon sequestration project operator and the owner of the carbon sequestration project are released from responsibility for all regulatory requirements associated with the carbon sequestration project.

(c) This state assumes any potential liability associated with the carbon sequestration project and carbon dioxide stream injected into the storage reservoir, and the carbon sequestration project operator, the owner of the carbon sequestration project, and the owner of the carbon dioxide stream injected into the storage reservoir are released from all liability associated with the carbon sequestration project and the carbon dioxide stream. However, the carbon sequestration project operator shall retain liability associated with the carbon sequestration project if any of the following occurs:

(i) The carbon sequestration project operator violated state law related to the project, the violation was not remedied before the issuance of the certificate of project completion, and any applicable statutes of limitation have not run.

(ii) The division determines, after notice and hearing, that the carbon sequestration project operator provided deficient or erroneous information that was material and relied upon by the division to support the issuance of the certificate of project completion.

(iii) Liability arises from the carbon sequestration project operator's conduct associated with the project that, if known, would have materially affected the division's decision in issuing the certificate of project completion.

(d) If a performance bond or other form of financial responsibility required to be provided by the carbon sequestration project operator or the owner of the carbon dioxide stream injected into the storage reservoir has a duration that extends beyond the date of the issuance of the certificate of completion, that performance bond or other form of financial responsibility is no longer required and shall be released within 60 days after issuance of the certificate of project completion.

(e) The administrator of the United States Environmental Protection Agency or, if the division has obtained primary enforcement responsibility for the class VI well program under section 65112, the division may take emergency actions authorized under the safe drinking water act of 1974, 42 USC 300f to 300j-27, and the federal regulations promulgated under that act, to protect the health of persons when the administrator or division receives information that a contaminant associated with a carbon sequestration project is present in or is likely to enter a public water system or an underground source of drinking water and may present an imminent and substantial endangerment to the health of those persons.

(2) Subsection (1) does not alter liability a carbon sequestration project operator may have under contract or criminal law.

Sec. 65111. (1) The division may request the attorney general to commence a civil action for appropriate relief, including a permanent or temporary injunction, for a violation of this part or a permit or order issued or rule promulgated under this part. An action under this subsection may be brought in the circuit court for the county of Ingham or for the county in which the defendant is located, resides, or is doing business. The court has jurisdiction to restrain the violation and to require compliance. In addition to any other relief granted under this subsection, the court may impose a civil fine of not less than

\$2,500.00 for each instance of violation and, if the violation is continuous, not more than \$2,500.00 for each day of violation.

(2) A person who willfully violates this part or a permit or order issued or rule promulgated under this part is guilty of a misdemeanor punishable by a fine of not less than \$5,000.00 for each instance of violation and, if the violation is continuous, not more than \$5,000.00 for each day of violation.

Sec. 65112. (1) Within 1 year after the effective date of the amendatory act that added this section, the division shall submit to the administrator of the United States Environmental Protection Agency an application to administer a class VI well program. The application shall include a complete program description, a letter from the governor, and a statement from the attorney general, to the United States Environmental Protection Agency administrator under federal regulations.

(2) The division may enter into a memorandum of agreement with the regional administrator of the United States Environmental Protection Agency as permitted by federal regulations.

Sec. 65113. (1) The division shall implement this part in a manner that complies with federal regulations in effect on the effective date of the amendatory act that added this section.

(2) To comply with federal regulations or otherwise implement this part, the division may promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. In addition, the division has jurisdiction over and shall promulgate rules to address the following issues as they pertain to carbon sequestration projects:

(a) Surface waste.

(b) Isolation distances established pursuant to part 127 of the public health code, 1978 PA 368, MCL 333.12701 to 333.12771, and the safe drinking water act, 1976 PA 399, MCL 325.1001 to 325.1023.

(c) Reasonable location and setback requirements to manage the risk that, in the event of carbon dioxide leakage from an injection well, carbon dioxide will flow or accumulate in a location where it would endanger public health or safety.

(d) Reasonable location, setback, and testing requirements to ensure facilities and equipment do not result in surface waste or unnecessary damage or danger to or destruction of underground resources, neighboring property or property rights, or public safety.

(e) To reasonably manage the risks of induced seismicity.

Sec. 65114. This part does not prohibit an oil, gas, or mineral owner or lessee, a carbon sequestration project operator, or a prospective carbon sequestration project operator from drilling through or near a reservoir, a disposal well project, or an oil and gas producing reservoir, or through an enhanced oil recovery project, to explore for and develop minerals if the drilling activities, including, but not limited to, completion activities on previously drilled wells, meet both of the following requirements:

(a) Comply with the requirements of this act and rules promulgated under this act, for drilling to strata beneath gas storage reservoirs, disposal well projects, or oil and gas producing reservoirs, or drilling through existing enhanced recovery projects.

(b) Preserve the integrity of any reservoir.

Sec. 65115. (1) Each calendar year, by a date specified by the division, a carbon sequestration project operator shall pay the division a fee set by the division for each ton of carbon dioxide stream injected for storage in the preceding calendar year. The fee shall be based on the department's anticipated reasonable expenses associated with long-term monitoring and management of the carbon sequestration project after issuance of a certificate of project completion under section 65109.

(2) The fee under this section shall not exceed 32 cents per ton of carbon dioxide stream injected. The state treasurer shall adjust this maximum amount annually by the inflation rate as that term is defined in section 34d of the general property tax act, 1893 PA 206, MCL 211.34d.

(3) The fees collected pursuant to this section shall be remitted to the state treasurer for deposit as follows:

(a) 10% in the Michigan nongame fish and wildlife trust fund established in section 42 of article IX of the state constitution of 1963 and provided for in part 439.

(b) 10% to each of the following funds:

(i) The community benefits fund created in section 65116.

(ii) The long-term remediation fund created in section 65117.

(iii) The first responders fund created in section 65118.

(c) The balance to the carbon sequestration fund created in section 65119.

Sec. 65116. (1) The community benefits fund is created in the state treasury.

(2) The state treasurer shall deposit into the fund all fee revenue received under section 65115(3) (b) (i) and revenue from any other source designated for the fund. The state treasurer shall direct the investment of money in the fund and credit interest and earnings from investments to the fund.

(3) The division is the administrator of the fund for audits of the fund.

(4) The division shall expend money from the fund, upon appropriation, only for grants to surface owners of land overlying the portion of the storage reservoir underlying the area included within the applicable carbon sequestration project and within 1/4 mile of the boundaries of that portion of the storage reservoir, to mitigate adverse impacts of a carbon sequestration project.

Sec. 65117. (1) The long-term remediation fund is created in the state treasury.

(2) The state treasurer shall deposit into the fund all fee revenue received under section 65115(3) (b) (ii) and revenue from any other source designated for the fund. The state treasurer shall direct the investment of money in the fund and credit interest and earnings from investments to the fund.

(3) The division is the administrator of the fund for audits of the fund.

(4) The division shall expend money from the fund, upon appropriation, only for remediation of carbon dioxide leakage from a carbon sequestration project after a certificate of project completion is issued for the project under section 65109.

Sec. 65118. (1) The first responders fund is created in the state treasury.

(2) The state treasurer shall deposit into the fund all fee revenue received under section 65115(3) (b) (iii) and revenue from any other source designated for the fund. The state treasurer shall direct the investment of money in the fund and credit interest and earnings from investments to the fund.

(3) The division is the administrator of the fund for audits of the fund.

(4) The division shall expend money from the fund, upon appropriation, for the following purposes:

(a) Grants to the department of state police to develop and administer emergency preparedness training resources under the emergency management act of 1976, 1976 PA 390, MCL 30.401 to 30.421.

(b) Grants to local units of government for training and equipment for life support agencies, as defined in section 20906 of the public health code, 1978 PA 368, MCL 333.20906, and fire departments to respond to an emergency at a carbon sequestration project.

(c) Grants to disaster relief forces, operators, or other persons for the costs to attend a carbon sequestration project emergency training course or costs for additional personnel, volunteer support, or equipment required to adequately respond to and manage a release of carbon dioxide.

(d) Other expenditures the division considers necessary to protect public safety from a release from a carbon dioxide pipeline, including, but not limited to, carbon dioxide monitors and air supply respirators.

Sec. 65119. (1) The carbon sequestration fund is created in the state treasury.

(2) The state treasurer shall deposit into the fund all fee revenue received under section 65115(3) (c) and revenue from any other source designated for the fund. The state treasurer shall direct the investment of money in the fund and credit interest and earnings from investments to the fund.

(3) The division is the administrator of the fund for audits of the fund.

(4) The division shall expend money from the fund, upon appropriation, only for the following purposes:

(a) To pay expenses the division incurs in long-term monitoring and management of a closed carbon sequestration project after issuance of a certificate of project completion under section 65109.

(b) To pay expenses that are incurred to perform regulatory responsibilities with respect to a carbon sequestration project that are not paid for by any other fee imposed under this part.

Part 653

CARBON SEQUESTRATION UNITIZATION

Sec. 65301. As used in this part:

(a) "Carbon sequestration project" means that term as defined in section 65101.

(b) "Confining zone" means that term as defined in section 2 of the subsurface pore space act.

(c) "Division" means that term as defined in section 65101.

(d) "Order for unit operations" means an order of the division under section 65304(4).

(e) "Plan for unit operations" means a plan under section 65305.

(f) "Pore space" means that term as defined in section 2 of the subsurface pore space act.

(g) "Storage reservoir" means that term as defined in section 65101.

(h) "Unit area" means that term as defined in section 65101.

Sec. 65302. Subject to the limitations of this part, the division shall make and enforce such orders, rules, and regulations and do such things as may be necessary or proper to carry out the purposes of this part. This duty includes the adoption of a schedule of fees to be paid upon the filing of petitions, amendments to petitions, and other instruments in connection with petitions that bear reasonable relation to the cost of examination, inspection, and supervision required under this part.

Sec. 65303. Any applicant or prospective applicant for a permit under part 651 may file with the division a verified petition requesting an order for unit operations of the carbon sequestration project or parts of the carbon sequestration project and for pooling of interests in pore space in the applicable portion of the storage reservoir. The petition shall contain all of the following:

(a) A copy of any permit, draft permit, or application for a permit under part 651 for the carbon sequestration project or any part thereof.

(b) A legal description of the proposed unit area, including total acreage, township, range, and section information.

(c) The names, as disclosed by the records in the office of the register of deeds for each county in which the proposed unit area is located, of the following:

(i) Each person that owns or has an interest in the surface estate or pore space within the proposed unit area, including mortgagees and the owners of other liens or encumbrances.

(ii) Each person that owns or has an interest in the surface estate or pore space not within but immediately adjoining the proposed unit area.

(iii) Each oil, gas, and mineral owner and lessee within the areas identified in subparagraphs (i) and (ii).

(d) The address of each person identified in subdivision (c) (i) and (ii), if known. If the name and address of any person is unknown, the petition shall so indicate.

(e) A statement of the type of operations proposed to comply with this part and part 651.

(f) A proposed plan for unit operations applicable to the proposed unit area that the petitioner considers fair, reasonable, and equitable. The proposed plan shall include provisions for determining all of the following:

(i) The pore space to be used within the unit area.

(ii) The quantity of pore space storage capacity that will be assigned to each separately owned parcel within the unit area.

(iii) The appointment of a unit operator.

(iv) The effective date of the plan for unit operations.

(v) The manner in which the unit area will be supervised and managed.

(g) A verified statement indicating in detail what action the petitioner has taken to contact and obtain the approval of each person of record that owns or has an interest in the proposed unit area and that has not approved the proposed plan for unit operations. If the plan for unit operations will be considered at a supplemental hearing before the supervisor, the verified statement may be filed separately before the supplemental hearing rather than as part of the petition.

(h) An appraisal setting forth the proposed compensation to be paid to a person that owns or otherwise has an interest in pore space and that has not approved the proposed plan for unit operations.

(i) A summary of all written agreements between the applicant and owners of pore space within the portion of the storage reservoir proposed to be included in a carbon sequestration project.

Sec. 65304. (1) Upon the filing of a petition for unit operations under this part, the petitioner shall provide notice by first-class mail, with proof of delivery, to the following persons at their last known address:

(a) The last owner of record of the pore space interests underlying the lands or areas directly affected by the proposed action; the surface owners; oil, gas, and mineral owners and lessees; and the owners and lessees of the subsurface geological formations and confining zone.

(b) The last owner of record of the pore space interests underlying the lands or areas immediately adjacent to, and contiguous to, the lands or areas directly affected by the proposed action, and the surface owners.

(2) The notice under subsection (1) shall include all of the following:

(a) The procedure required to file a protest against the petition.

(b) The name, address, and phone number of a representative of the petitioner who is available to discuss the petition.

(c) A statement that the division may issue an order approving the petition without a hearing if a protest is not received in the time period provided in subsection (4).

(d) For the notice to pore space and surface owners who have not approved the plan for unit operations, a copy of the petition, except that the petitioner may omit from the notice parts of the petition referred to in section 65303(c) and (d).

(3) The failure of a petitioner to give notice under subsections (1) and (2) to a person entitled to notice is not a bar to holding a hearing or issuing an order under this part if the petitioner substantially complied with the notice requirements of this part.

(4) To protest the petition for unit operations, a person shall submit to the division a written notice of the protest and the reason or reasons for the protest not more than 15 days after the petitioner complies with subsections (1) and (2). If such a notice of protest is timely submitted, the division shall hold a hearing on the petition. If such a notice of protest is not timely submitted, the division may issue an order for unit operations without holding a hearing.

(5) The division shall issue an order for unit operations of the carbon sequestration project or parts of the carbon sequestration project and for pooling of interests in pore space in the applicable portion of the storage reservoir if the division finds all of the following:

(a) That the material representations contained in the verified petition are substantially true.

(b) That the unitization requested will facilitate the operation of a carbon sequestration project under part 651.

(c) That the type of operations contemplated by the proposed plan for unit operations is feasible and the injection of carbon dioxide stream into the storage reservoir for the unit will not endanger or injure any oil, gas, or other mineral formation in any material respect unless otherwise addressed in an arrangement

between the applicant and the oil, gas, or mineral owner or lessee within the unit area.

(d) That the application outlines operations that will comply with part 651.

Sec. 65305. An order for unit operations under section 63504(5) shall include terms and conditions that are fair, reasonable, and equitable. The order shall prescribe a plan for unit operations that includes all of the following:

(a) A description of the unit area, including any part of the surface estate within the unit area that will be used as part of the carbon sequestration project. This part does not authorize the location of any monitoring well on the surface estate of any tract. Any monitoring well location and facilities will be determined through negotiation between the applicant and owners of the surface estate.

(b) A statement in reasonable detail of the operations contemplated.

(c) The quantity of pore space capacity allocated to each separately owned tract within the unit area, representing each tract's share of pore space being used in the carbon sequestration project, and the method used to make that allocation.

(d) The general manner in which the unit and the further development and operation of the unit area shall or may be conducted.

(e) Provisions, based upon appraisals submitted by the applicant and pore space owners whose interests have not been acquired for use in unit operations, for compensation for the fair market value of the pore space.

(f) Provisions for supervision and management of the unit operations.

(g) The effective date of the plan for unit operations and the date when unit operations may commence.

(h) The time when, conditions under which, and method by which the unit shall be dissolved and its affairs wound up.

(i) A requirement that the carbon sequestration project comprising the unit area obtain a permit under part 651.

(j) Findings by the division that the injection of the carbon dioxide stream into the carbon sequestration project for the unit will not endanger or injure any oil, gas, or other mineral formation in any material respect, or that any such endangerment or injury has been or can be reasonably addressed in an arrangement between the petitioner and the mineral lessee or mineral owners within the unit area.

(k) Any additional provisions that the division finds are appropriate for carrying on the unit operations.

Sec. 65306. An order for unit operations under section 65304(5) does not take effect until the division makes a finding, either in the order for unit operations or in a supplemental order, that the plan for unit operations has been approved in writing by persons owning at least 60% of the pore space storage capacity within the unit area. For purposes of this part, any unknown or unlocatable pore space owners shall be considered to have approved the plan of unit operations and are subject to a proposed unit if the petitioner complied with the notice requirements set forth in section 65304(1) and (2). The lessees of state-owned pore space that is leased through a state leasing program under section 65314 and comprises all or a portion of the pore space storage capacity for a carbon sequestration project shall be considered to have approved the plan of unit operations under this section. The plan of unit operations is subordinate to the terms and conditions of any state pore space lease.

Sec. 65307. If persons owning at least 60% of the pore space storage capacity within the unit area have not approved the plan for unit operations when the division issues the order for unit operations, the division on its own motion or the motion of any interested person shall, after providing notice, hold 1 or more supplemental hearings to determine if the plan for unit operations has been approved under section 65306. If the division finds that the plan has been approved, the division shall issue a supplemental order declaring the plan effective and setting forth the date for the commencement of unit operations. If, within 180 days from the date on which the order for unit operations is issued, the division does not find that the plan has been

approved, the order for unit operations is ineffective and shall be revoked by the division unless for good cause shown the division extends the time for an additional period not to exceed 1 year.

Sec. 65308. In the same manner as and subject to the same conditions that apply to the issuance of an original order for unit operations, the division, upon its own motion or upon application, and with notice and hearing, may modify or amend an order for unit operations regarding the operation, size, or other characteristics of the unit area to prevent or assist in preventing a substantial inequity resulting from operation of the unit.

Sec. 65309. Operations conducted pursuant to an order for unit operations constitute a fulfillment of all the express and implied obligations of each lease or contract covering the lands in the unit area to the extent that compliance with the obligations is prevented by the order for unit operations.

Sec. 65310. Except to the extent that the parties affected agree otherwise, an order for unit operations does not result in a transfer of all or part of the title of any person's pore space rights in any tract within the unit area.

Sec. 65311. If the plan for unit operations under section 65305 so provides, a unit created under this part may, through its operator, sue, be sued, and contract as a unit in its own right. The operator of the unit, on behalf and for the account of all owners of interest within the unit area, may supervise, manage, and conduct further development and operations for the carbon sequestration project within the unit area under the authority and limitations of the order for unit operations.

Sec. 65312. After the effective date of an order for unit operations, the unit area defined in the order shall not be operated by persons other than the unit operator or persons acting under the unit operator's authority, or operated other than in the manner and to the extent provided in the plan for unit operations.

Sec. 65313. Property rights, leases, contracts, and all other rights and obligations shall be considered to be amended and modified to the extent necessary to conform to this part and to

any valid and applicable plan for unit operations or order of the division made pursuant to this part.

Sec. 65314. The division shall not require the unitization of state-owned properties or parts of state-owned properties under this part if this state provides for the orderly development of state-owned pore space through a leasing program.

Sec. 65315. (1) The department may promulgate rules to implement this part pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(2) Except as provided under section 65304, the division shall not issue, put into effect, revoke, change, renew, or extend an order under this part, unless the division has held a public hearing. The public hearing shall be held at such time, place, and manner as provided for in this part or by rules promulgated under this part, including notice as provided in section 65316.

Sec. 65316. (1) If a written notice of protest is timely filed under section 65304(4), the division shall not issue, put into effect, revoke, change, renew, or extend an order under this part, unless the division has held a public hearing on the proposal. The public hearing shall be held at such time, place, and manner as provided for in this part or by rules promulgated under this part.

(2) Jurisdictional requirements of notice for all hearings required by this part, except proceedings for criminal or civil enforcement of this part, are satisfied by publication of the time, place, and issues involved in the hearing as provided in either of the following:

(a) Publication once each week for 2 weeks consecutively in a newspaper of general circulation in the county in which the unit area or any portion of the unit area is located with the date of last publication at least 20 days before the date set for the hearing.

(b) Publication at least 20 days before the date set for the hearing in a trade journal, periodical, newsletter, or paper, or commercially available scout report, in general circulation within appropriate industries as determined by the division.

Sec. 65317. The rules, procedures, penalties, and other provisions set forth in section 61709 and sections 61728 to 61737 governing the process employed by the division for the unitization of oil and gas drilling units apply to a petition filed for unitization of pore space interests within a unit area under this part and any order under this part. However, to the extent that the provisions set forth in section 61709 and sections 61728 to 61737 conflict with this part, the provisions of this part control.

Sec. 65319. A certified copy of an order of the division issued under this part may be recorded in the office of the register of deeds for each county where all or any portion of the unit area is located, and such recordation constitutes notice to all persons in interest and their heirs, successors, and assigns.

Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 103rd Legislature are enacted into law:

(a) Senate Bill No. ____ (request no. S01284'25) or House Bill No. ____ (request no. H01284'25).

(b) Senate Bill No. ____ (request no. S01285'25) or House Bill No. ____ (request no. H01285'25).